IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

MONDAY, THE 15TH OCTOBER 2007 / 23RD ASWINA 1929

WP(C).No. 30335 of 2007(J)

PETITIONER:

M/S.SRINILAYAM APARTMENT RESIDENTS WELFARE ASSOCIATION NEAR ELUMANACKAL TEMPLE, EROOR, TRIPUNITHURA, REPRESENTED BY ITS SECRETARY T.V.RAMANATHAN.

BY ADV. SRI.K.N.SIVASANKARAN
SRI.K.I.MAYANKUTTY MATHER
SRI.SUNIL SHANKER

RESPONDENTS:
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1. **THE TAHSILDAR, KANAYANNUR TALUK, ERNAKULAM.**
2. **THE VILLAGE OFFICER, NADAMA.**
3. **THE DISTRICT COLLECTOR, COLLECTORATE, ERNAKULAM.**
4. **COMMISSIONER OF LAND REVENUE, SECRETARIAT, TRIVANDRUM.**

BY GOVERNMENT PLEADER SRI.K.P.PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15/10/2007, ALONG WITH W.P.(C).No.30408/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC,J.

W.P (C) Nos. 30335 & 30408 of 2007

Dated this the 15th October, 2007

J U D G M E N T

These writ petitions have been filed by the apartment owners association and the land owner who have been issued Exhibit-P4 orders of assessment under the Kerala Building Tax Act, 1975. In these two cases , the whole building is treated as one single unit and on that basis building tax has been assessed under Exhibit-P4 on the respective petitioners and following this, demand also has been made. In both these cases, the assessees have already remitted the 1st instalment of the tax assessed. Now revenue recovery action has been initiated against the petitioners and hence these writ petitions have been filed challenging the orders of assessment itself. According to the petitioners the building consist of various units belonging to different persons and therefore it ought to be assessed as independent units and that too against the respective owners.

2. It is submitted that the building has been constructed based on separate agreements with the respective owners and utilising their contributions and therefore individual owners ought to be assessed and not the owners association or the land

owners. They also rely on the judgment of this Court in **Bavasons Constructions Pvt Ltd. Vs. State of Kerala** [2007 (3) KLT 101].

3. I have considered the submissions made by the counsel for the petitioners and the learned Government Pleader also. Several cases raising identical point have been considered by this Court. In all such cases, the orders of assessment treating the entire building as one unit has been set aside and ratio of those judgments is applicable in this case also. I am satisfied that the petitioners are entitled to similar reliefs. Accordingly, Exhibit-P4 in these cases will stand set aside. The 1st respondent shall initiate steps for fresh assessment with notice to the petitioners and other individual owners of the apartments concerned, the list of which will be made available by the petitioners in these writ petitions. In the course of adjudication, the petitioners will be entitled to produce their agreements and other documents including their books of accounts evidencing contribution of the respective owners and on the basis of which they contended that individual owners are to be assessed. Enquiry as above shall be completed in

accordance with law and with notice to the petitioners, as expeditiously as possible, at any rate, within three months from the date of receipt of a copy of this judgment. Now that Exhibit-P4 orders of assessment , revenue recovery proceedings in these two case will also stand set aside.

(ANTONY DOMINIC, JUDGE)

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K.THANKAPPAN,J

CRL.A. NO.92 OF 1999

ORDER

25th May, 2007